

# Exhibit 9

**Gizzi, Paul**

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**From:** Ellenbogen, Bennett  
**Sent:** Monday, July 15, 2019 4:07 PM  
**To:** John Hanamirian  
**Cc:** Tepperman, Wendy B.; Gizzi, Paul  
**Subject:** American River Bankshares (NY-09615)

John:

Mr. O'Brien's statements made during the August 21, 2018 proffer were covered by the terms of the July 12, 2018 proffer agreement; and, as described therein, the agreement only covers statements made by Mr. O'Brien during his proffer. I refer you to the proffer agreement for its full terms and conditions.

Mr. O'Brien was subpoenaed to provide testimony under oath. As I am sure you are aware, among other things, a witness may refuse to answer a questions pursuant to the Fifth Amendment privilege against self-incrimination. If Mr. O'Brien intends to assert this privilege, I would appreciate you letting me know in advance. I refer you to the subpoena and the Supplemental Information Form 1662 attached to his subpoena for a more detailed description of a witnesses' rights and obligations during his or her investigative testimony.

Ben

Bennett Ellenbogen  
S.E.C.

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**From:** John Hanamirian [mailto:jmh@hanamirian.com]  
**Sent:** Wednesday, July 10, 2019 2:01 PM  
**To:** Ellenbogen, Bennett; John Hanamirian  
**Subject:** RE: American River Bankshares (NY-09615)

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Ben:

I wanted to confirm that the oral testimony James may provide pursuant to the most recently issued Subpoena (May 15, 2019); (1) is for the purpose of having a record of the oral testimony previously provided pursuant to the attached Proffer and the Subpoena that preceded that Proffer; and (2) that we each continue under the terms of that Proffer.

**HANAMIRIAN  
LAW FIRM**  
MAIN STREET TO WALL STREET

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Licensed in PA, NJ and NY.

**From:** Ellenbogen, Bennett  
**Sent:** Thursday, July 12, 2018 5:03 PM  
**To:** John Hanamirian  
**Subject:** RE: American River Bankshares (NY-09615)

John:  
Please see attached.

Ben

Bennett Ellenbogen  
S.E.C.

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**From:** John Hanamirian [<mailto:JMH@hanamirian.com>]  
**Sent:** Tuesday, July 10, 2018 5:54 PM  
**To:** Ellenbogen, Bennett  
**Subject:** RE: American River Bankshares (NY-09615)

Ben:

We can discuss the below when we provide the balance of the production. As I had said in the accompanying correspondence to what has been provided to date, the electronic discovery is not yet fully produced. In the vein of follow-up, I do not have a Proffer Letter. You had advised a Letter would be forthcoming when a date was set.

**HANAMIRIAN  
LAW FIRM**  
MAIN STREET TO WALL STREET

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**From:** Ellenbogen, Bennett [<mailto:EllenbogenB@SEC.GOV>]  
**Sent:** Monday, July 09, 2018 11:15 AM  
**To:** John Hanamirian <[JMH@hanamirian.com](mailto:JMH@hanamirian.com)>  
**Subject:** American River Bankshares (NY-09615)

Dear Mr. Hanamirian:

A review of the covering letter accompanying Mr. O'Brien's document production, and a targeted review of the documents, indicates a number of likely deficiencies in the production:

- A. No documents responsive to request number 3 ("All documents reflecting any communications—including, without limitation, emails, instant messages, and text messages, whether stored on a computer, mobile device, server or elsewhere—between you and any other person relating to the Brokerage Firms during the Relevant Period") have been produced.

Can you confirm that in fact that Mr. O'Brien has no documents responsive to document request number three in his possession, custody, or control or, produce all responsive documents immediately. Conversely, if these documents have been provided, please provide the bates numbers for the documents that are responsive to document request number 3.

- B. No documents have been produced that identify any email addresses used by Mr. O'Brien during the Relevant Period (document request number 4).

Please provide this information or confirm that Mr. O'Brien did not have any email addresses during the Relevant Period. Conversely, if these documents have been provided, please provide the bates numbers for the documents that are responsive to document request number 4.

- C. No documents reflecting telephone calls or text messages (document request number 6) appear to have been produced.

Please provide this information immediately or confirm that Mr. O'Brien did not make any telephone calls and/or text messages during the Relevant Period. Conversely, if these documents have been provided, please provide the bates numbers for the documents that are responsive to document request number 6.

- D. No documents reflecting any software programs, algorithms or hot keys used in connection with the trading during (document request number 7) appear to have been produced.

Please provide this information immediately or confirm that no software programs, algorithms or hot keys were used in the trading during the Relevant Period. Conversely, if these documents have been provided, please provide the bates numbers for the documents that are responsive to document request number 7.

In light of the above, please immediately produce all responsive documents, or confirm that all responsive documents in Mr. O'Brien's possession, custody, or control, have been produced.

Thank you,

Bennett Ellenbogen  
S.E.C.